



DEPARTMENT OF VETERANS AFFAIRS

8320-1

Meeting the Challenge of Pandemic Influenza: Ethical Guidance for Leaders and Health Care Professionals in the Veterans Health Administration

AGENCY: Department of Veterans Affairs

ACTION: Notice and Request for Comments

SUMMARY: The Department of Veterans Affairs (VA) through its National Center for Ethics in Health Care (NCEHC) invites interested parties to comment on a guidance document entitled “Meeting the Challenge of Pandemic Influenza: Ethical Guidance for Leaders and Health Care Professionals in the Veterans Health Administration.”

(Guidance). VA is committed to an open and engaged stakeholder process and welcomes input on how to improve the Guidance and integrate key ethical concepts into ongoing emergency response planning in VA.

DATES: Comments must be received by VA on or before [insert date 60 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to “Meeting the Challenge of Pandemic Influenza: Ethical Guidance for Leaders and Health Care Professionals in the Veterans

Health Administration.” Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 (this is not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at <http://www.Regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Virginia A. Sharpe, Medical Ethicist, Veterans Health Administration, National Center for Ethics in Health Care, (10P6), 810 Vermont Avenue NW, Washington DC, 20420, Telephone: 202-461-4020 (this is not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

In November 2005, the White House released the National Strategy for Pandemic Influenza to guide preparedness and response to an influenza pandemic, with the intent of (1) stopping, slowing or otherwise limiting the spread of a pandemic to the United States; (2) limiting the domestic spread of a pandemic, and mitigating disease, suffering and death; and (3) sustaining infrastructure and mitigating impact to the economy and the functioning of society.” The strategy is organized around 3 pillars: Preparedness & Communication, Surveillance & Detection, and Response & Containment. These pillars have been used to prepare for multiple influenza threats, such as H5N1 avian influenza. It also guided the government’s response to the 2009 H1N1 pandemic.

In the National Strategy, the White House identified Federal responsibilities for the development of guidance and response planning during a severe flu pandemic, including guidance for the allocation of scarce health and medical resources. As part of this task, VA's National Center for Ethics in Health Care developed a Guidance document to provide a framework for decision making in VHA about three major ethical challenges related to a severe pandemic influenza. Those challenges are: (1) How can health care providers and the institution as a whole meet the obligation to provide care during an infectious disease outbreak? Specifically, what steps can the institution take to minimize risk to health care workers, so that they can continue coming to work to assist in patient care? (2) How can decision makers ethically allocate scarce resources? Specifically what steps are needed to ensure that decision making is transparent, reasonable, and fair? (3) How can decision makers take steps to limit the spread of disease but at the same time ensure the least restrictions on individual liberties? As the largest health care system in the United States, VA elected to address these difficult issues to ensure that VA is prepared to respond thoughtfully and consistently to severe and widespread health crises. For each of these challenges, the Guidance presents ethical principles and national guidance for VHA. The expectation is that VA leadership and health care professionals will use this information in pandemic workforce, communications, and patient care planning and response.

The Guidance has received feedback from VA clinicians and administrators as well as experts outside of VA. Because the Guidance document is anticipated to affect patients, their families, staff, and the VA community as a whole, the NCEHC is inviting Veterans, members of the general public and interested parties from relevant Federal,

State, and professional bodies to provide feedback through written comments. The goal of this Notice is to ensure that people who may be directly affected during a severe influenza pandemic have an opportunity to contribute to the development of ethical concepts and processes that will guide VA emergency planning. VA is aware that there are no perfect approaches to managing a catastrophe, but we still believe that with forward thinking and incorporation of broad public input and lessons learned from the 2009 H1N1 pandemic, we can develop the best possible, most scientifically- and ethically-informed approaches. We believe this approach, led by VA, stands the best chance of developing a sound model to serve as framework for other public and private healthcare organizations on a national scale and beyond.

Comments are invited in response to the following:

1. Does the Guidance include the range of ethical issues relevant to pandemic influenza planning and response that are of concern to you? Are there other issues that you would like to see addressed in the VA Guidance?
2. Does the Guidance support the needs of Veterans with regard to fair treatment during a public health crisis?
3. Does the Guidance support the needs of health care workers with regard to fair treatment during a public health crisis?
4. The Guidance presents a team process for allocation of scarce lifesaving resources based on illness severity, the likelihood of benefiting from

treatment, and resource availability. Apart from maintaining accountability for an established decision process, the rationale for a team-based approach is to allow individual health care providers to maintain their focus treating individual patients. Do you think that this is a good and fair approach to making these difficult decisions?

5. Do you think that the key ethical concepts presented in the Guidance for pandemic influenza planning and response can also be used in VA's planning for other highly contagious illnesses? If so, are there important differences that we should keep in mind?

Any other comments/observations regarding the Guidance are welcome.

AVAILABILITY: Persons with access to the Internet may obtain the document at: [http://www.ethics.va.gov/activities/pandemic\\_influenza\\_preparedness.asp](http://www.ethics.va.gov/activities/pandemic_influenza_preparedness.asp). Alternatively, the guidance may be obtained by mail by calling NCEHC at 202-501-0364 (this is not a toll-free number).

Dated: February 2, 2012

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Robert C. McFetridge  
Director, Regulation Policy & Management  
Office of the General Counsel  
Department of Veterans Affairs

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